

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 21. BOARD OF OPTOMETRY

(Authority: A.R.S. § 32-1701 et seq.)

*Editor's Note: All former rules renumbered. Refer to Historical Notes following each rule (Supp. 86-1).***ARTICLE 1. GENERAL PROVISIONS**

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Article 4, consisting of Sections R4-21-401 thru R4-21-406, adopted effective November 5, 1998 (Supp. 98-4).

Section

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ARTICLE 1. GENERAL PROVISIONS**R4-21-101. Definitions**

In addition to the definitions established in A.R.S. § 32-1701, the following terms apply to this Chapter:

1. "Accredited" means that an educational institution is officially approved by the New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, Western Association of Schools and Colleges, or the American Optometric Association Council on Optometric Education to offer courses in optometry.
2. "Application" means forms, documents, and additional information the Board requires to be submitted by an individual who requests licensure.
3. "*Board*" means the state board of optometry. A.R.S. § 32-1701(1).
4. "Certificate of special qualification" means a document that allows the holder to practice in a specific area of optometry specified in A.R.S. § 32-1728.
5. "Incompetence" means:
 - a. Lack of professional skill or fidelity in performing the practice of optometry,
 - b. Treatment in a manner contrary to accepted optometric practices, or
 - c. Lack of physical or mental fitness to discharge professional duties.
6. "Licensure by examination" means an applicant meets the examination requirements of A.R.S. § 32-1724.
7. "Licensure by reciprocity" means an applicant satisfies all of the requirements of A.R.S. § 32-1723.
8. "Low vision rehabilitation" means evaluation, diagnosis, management, and treatment of a limited vision, including the prescribing of corrective spectacles, contact lenses, prisms, or filters; or the employment of any means for the adaptation of lenses.
9. "National Board" means the National Board of Examiners in Optometry.
10. "National Board Exam" means the optometry examination administered by the National Board.
11. "*Pharmaceutical*" or "*pharmaceutical agent*" means a prescription or nonprescription substance, or a schedule III controlled substance used for examination, diagnosis or treatment of conditions of the human eye and its adnexa. A.R.S. § 32-1701(5). Pharmaceutical and pharmaceutical agent include the following categories:
 - a. "TPA" (topical pharmaceutical agent) means an externally applied medicine used to diagnose, treat, and manage disease of the eye and its adnexa;
 - b. "Oral pharmaceutical" means an ingested medicine used to treat and manage disease of the eye and its adnexa; and
 - c. "Anti-anaphylactic agent" means an intramuscular dose of epinephrine used for the emergency treatment of allergic reactions and delivered by a self-injecting syringe.
12. "Vision therapy" means an individualized treatment program prescribed to improve or rehabilitate conditions such as strabismus or amblyopia. Vision therapy is designed to help individuals learn, relearn, or reinforce specific vision skills, including eye movement control, focusing control, eye coordination, and the teamwork of the 2 eyes. It may include prescribing of corrective spec-

tacles, contact lenses, prisms or filters, or the employment of any means for the adaptation of lenses.

Historical Note

Former Rule Section 1. Former Section R4-21-01 repealed, new Section R4-21-101 adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3).

R4-21-102. Meetings

The Board shall conduct meetings at least 6 times each year at times and places designated by the Board or the Governor.

Historical Note

Former Rule Section 2. Former Section R4-21-02 repealed, new Section R4-21-102 adopted effective February 7, 1986 (Supp. 86-1). Amended effective November 5, 1998 (Supp. 98-4).

R4-21-103. Fees

- A. In addition to fees established by A.R.S. § 32-1727, the Board shall charge license fees as follows:
1. License issuance fee: \$200 in even-numbered years and \$400 in odd-numbered years.
 2. Biennial license renewal fee: \$400.
- B. A person requesting public records shall pay the following fees for searches and copies of Board records under A.R.S. §§ 39-121.01 or 39-121.03:
1. Noncommercial copy:
 - a. 5¢ per name and address for directory listings or 15¢ each if printed on labels, and
 - b. 25¢ per page for other records.
 2. Commercial copy:
 - a. 25¢ per name and address for directory listings or 35¢ each if printed on labels, and
 - b. 50¢ per page for other records.
 3. Record searches: \$25 per hour, with a minimum charge of \$10 (this fee shall be waived for other government agencies); and
 4. Pamphlets containing optometry statutes and rules: \$5.
- C. An applicant for registration or biennial registration renewal as a nonresident dispenser shall pay to the Board a fee of \$500.

Historical Note

Former Section 3. Amended effective December 27, 1979 (Supp. 79-6). Former Section R4-21-03 renumbered without change as Section R4-21-211, former Section R4-21-06 renumbered without change as Section R4-21-103 effective February 7, 1986 (Supp. 86-1). Amended subsection (A) effective June 20, 1989 (Supp. 89-2). Amended effective September 14, 1998 (Supp. 98-3). Amended effective November 5, 1998 (Supp. 98-4).

ARTICLE 2. LICENSING PROVISIONS

R4-21-201. Licensure

- A. A person applying for licensure shall submit the following information on a licensure application form provided by the Board not later than 30 days before the date of an examination:
1. The applicant's full name and social security number;
 2. The applicant's place and date of birth;
 3. The applicant's current mailing address;
 4. The applicant's residence addresses for the past 10 years;
 5. The applicant's educational background;
 6. The applicant's previous optometric experience;
 7. The applicant's previous optical experience;
 8. The applicant's work experience or occupation for the past 10 years;

9. A list of the applicant's previous state board examinations;
 10. A list of the states in which the applicant is or has been licensed and, if a license is no longer valid, the reasons why;
 11. Whether the applicant has ever been denied the right to take an examination for optometric licensure by any state;
 12. Whether the applicant has ever been refused an optometric license or renewal in any state;
 13. Whether the applicant has ever had a license or certificate of registration to practice optometry suspended or revoked by any optometric licensing agency, board, or equivalent;
 14. Whether any disciplinary action has ever been instituted against the applicant by any optometric licensing agency or equivalent;
 15. Whether the applicant has ever been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country;
 16. Whether the applicant has been addicted to narcotic substances or habitually abused alcohol within the last 10 years;
 17. Whether the applicant is presently addicted to narcotic substances or habitually abuses alcohol;
 18. If the answer to any of the questions in subsections (A)(11) through (A)(17) is affirmative, a complete explanation of the details, including dates;
 19. The character reference letter from 3 professional or business persons, unrelated to the applicant, who have known the applicant for at least the past 3 years;
 20. A sworn statement under oath by the applicant verifying the truthfulness of the information provided by the applicant; and
 21. A 2" by 3" photograph taken within the past 6 months of the applicant showing head and shoulders.
- B. In addition to the requirements of subsection (A), an applicant for licensure shall submit or arrange to have submitted:
1. A completed fingerprint card accompanied by a separate nonrefundable fee in the form of a cashier's check, certified check, or money order in an amount determined by and payable to the Arizona Department of Public Safety for the procurement of background information;
 2. The \$150 filing fee authorized by A.R.S. § 32-1727;
 3. Evidence of the successful completion of an approved course of study prescribed by A.R.S. § 32-1722(A)(3). Acceptable evidence includes:
 - a. An official transcript showing that the applicant has passed the course or courses, if the applicant graduated from a school of optometry on or after August 6, 1999, or
 - b. A certificate of completion issued by the sponsoring institution specifying the subject matter and hours completed, if the applicant graduated from a school of optometry before August 6, 1999.
 4. An official transcript received directly from the accredited institution from which the applicant graduated with a degree in optometry. The transcript need not be filed with the application, but shall be received by the Board at least 10 days before the applicant's examination date.
- C. An applicant for licensure by reciprocity shall submit to the Board all of the information required by subsections (A) and (B) not later than 60 days before the date of the licensing examination together with the following additional materials:
1. A State Certification form provided by the Board, completed by the agency responsible for licensing optome-

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trists in the state from which the applicant is seeking reciprocity, that provides the following information:

- a. Confirmation that the state accords similar reciprocity privileges to optometrists licensed in Arizona;
- b. Confirmation that the applicant has been engaged in the practice of optometry in or under the authority of that state for at least 4 of the 5 years preceding the date of the application;
- c. Explanation of the basis for and result of any disciplinary action taken against the applicant within the preceding 10 years, including censure, probation, suspension, or revocation of the applicant's license;
- d. Description of any pending investigations or complaints regarding the applicant;
- e. Statement that the applicant is in good standing to practice optometry in that state;
- f. Statement whether the applicant is known to have been licensed to practice optometry in any other state and, if so, the name of that state; and
- g. A certified copy of the applicant's license from the board of registration in the profession of optometry in the state where the applicant was licensed.

2. The applicant's sworn and notarized statement on a form provided by the Board that affirms that the applicant satisfies each of the requirements of A.R.S. § 32-1723(A)(3), (A)(4), and (A)(6).

- D.** The Board shall permit an applicant to take an examination only if the applicant completes an application and files transcripts before the deadlines.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3).

R4-21-202. License Examination and Appeal

- A.** An applicant for licensure shall take a written and practical examination.
1. No later than the 1st Board meeting of a calendar year, the Board shall announce for that calendar year that the Board shall either:
 - a. Under A.R.S. § 32-1724, administer a written examination to applicants, or
 - b. Accept documentation that an applicant has passed Board-designated parts of the written examination administered by the National Board and designate the parts of the exam that must be passed.
 2. If the Board administers a written examination, the Board shall grade each written examination subject separately, and calculate an overall average of the subjects separately from any practical exam score. All written questions remain the property of the Board and applicants shall return them to the Board at the end of the examination.
 3. An applicant for licensure shall complete a practical examination. The practical examination may include clinical procedures and written responses to questions about slides of eye conditions. The Board may require an applicant to examine a patient as part of the practical examination. An applicant shall supply any hand-held instruments or equipment needed for use in the patient examination.
- B.** An applicant who fails either the written or practical portion of the examination and applies for re-examination in a subsequent year shall retake the entire examination given in the re-examination year. An applicant for re-examination shall pay the regular examination fee.

- C.** An applicant who fails the Board's written examination, practical examination, or both may appeal the Board's exam score determinations as follows:

1. Within 60 days of license denial, the applicant or the applicant's attorney may make an appointment to examine the applicant's most recent examination answers in the Board's office during regular business hours for a total time of 2 hours. The applicant may take notes and shall provide a copy of the notes to the Board to retain and review to protect the integrity of the examination. Dissemination of confidential testing material is grounds for license denial.
2. An applicant shall file an original and 7 copies of a petition for review within 60 days after the licensing examination scores are mailed by the Board. The applicant shall type or print the petition that shall contain:
 - a. A specific statement of grading errors,
 - b. Supporting evidence, and
 - c. The signature of the applicant or the applicant's attorney.
3. If the Board affirms the original test score, the applicant may request a hearing on the license denial pursuant to the provisions of A.R.S. Title 41, Chapter 6, Article 6 and 10.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-202 repealed; new Section R4-21-202 renumbered from R4-21-204 and amended effective November 5, 1998 (Supp. 98-4).

R4-21-203. Time-frames for Licensure, Renewal of License, Certificates of Special Qualification, and Course of Study Approval

- A.** For each type of license, renewal of license, certificate, or approval issued by the Board, the overall time-frame described in A.R.S. § 41-1072(2) is listed in Table 1.
- B.** For each type of license, renewal of license, certificate, or approval issued by the Board, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is listed in Table 1 and begins on the date the Board receives an application.
1. If the application is not administratively complete, the Board shall send a deficiency notice to an applicant.
 - a. The deficiency notice shall state each deficiency and the information needed to complete the application and documents.
 - b. Within the time provided in Table 1 for response to the deficiency notice, beginning on the mailing date of the deficiency notice, the applicant shall submit the missing information specified in the deficiency notice to the Board. The time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing information.
 2. If the application is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
 3. If the applicant fails to respond timely and completely to the deficiency notice, the Board shall send a written notice to the applicant informing the applicant that the Board considers the application withdrawn. Under A.R.S. § 32-1727(b), fees are nonrefundable except as provided in A.R.S. § 41-1077(A).

- C. For each type of license, renewal of license, certificate, or approval issued by the Board, the substantive review time-frame described in A.R.S. § 41-1072(3) is listed in Table 1 and begins on the date as prescribed in subsection (D), depending on the manner in which the Board transmits the written notice of administrative completeness to the applicant.
1. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information. Within the time provided in Table 1 for response to a comprehensive written request for additional information, the applicant shall submit to the Board the requested additional information. The time-frame for the Board to finish the substantive review is suspended from the date calculated as prescribed in subsection (D), until the Board receives the requested additional information.
 2. If the Board determines that a hearing under A.R.S. § 32-1722(C) is needed to obtain information on the character of an applicant, the Board shall include a notice of the hearing in its comprehensive written request for additional information.
 3. The Board shall issue a written notice of denial of license, renewal of license, certificate, or approval if the Board determines that the applicant does not meet all of the substantive criteria required by statute or this Chapter.
 4. The Board shall issue a written notice informing the applicant that the Board considers the application withdrawn if the applicant does not submit the requested additional information within the time-frame in Table 1 unless the applicant requests formal denial in writing within 20 days of the written notice. Under A.R.S. § 32-1727(B), fees are nonrefundable except as provided in A.R.S. § 41-1077(A).
 5. If the applicant meets all of the substantive criteria required by statute and this Chapter for licensure, renewal of license, certificate, or approval, the Board shall notify the applicant that the qualifications for licensure have been met and the license shall be issued as specified in R4-21-207 after receipt of the license issuance fee.
- D. In computing any period of time prescribed in this Section, the Board shall not include the day of the act, event, or default after which the designated period of time begins to run. The last day of the period is included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or a state holiday. The computation includes intermediate Saturdays, Sundays, and holidays. The time period begins on the date of personal service, date shown as received on a certified mail receipt, or postmark date.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1).
Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-203 repealed; new Section R4-21-203 adopted effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3).

R4-21-204. License Renewal

- A. A license renewal applicant shall, before August 31 of the biennial license renewal year, submit the renewal fee and the following information to the Board on a renewal form provided by the Board:
1. Any change in the applicant's mailing address;
 2. A list of all practice addresses and phone numbers;
 3. A list of continuing education courses and proof of attendance at 32 hours of Board-approved courses and programs in continuing education;
 4. The state where the applicant currently practices and the date when the practice commenced;
 5. Whether the applicant is retired from the practice of optometry;
 6. Whether the applicant has been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country, and if so, an explanation; and
 7. A statement verifying the truthfulness of the information provided.
- B. All certificates held by an applicant remain in effect upon license renewal.
- C. A license is void if an applicant does not submit a renewal application and renewal fee before August 31 of the year the license expires.
- B. An accredited educational institution that offers an approved course of study shall grant a certificate of completion or its equivalent for the course of study when a student obtains a score of at least 75% on a closed book, proctored, written examination covering prescribing, dispensing, and administering pharmaceutical agents, and is commensurate with courses of study taken by current doctoral candidates in colleges of optometry.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1).
Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-204 renumbered to R4-21-202; new Section R4-21-204 adopted effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3).

R4-21-205. Course of Study Approval

- A. Any accredited educational institution may apply to the Board for approval of a course of study covering didactic education, pharmacology, and clinical training in the examination, diagnosis, and treatment of conditions of the human eye and its adnexa, and prescribing, dispensing, and administering pharmaceutical agents. The institution's authorized representative shall provide the following information on the application:
1. The name and address of the accredited educational institution;
 2. Certification that the course of study is equivalent in scope and content to courses provided to current graduates of the accredited educational institution;
 3. The names and qualifications of proposed faculty and staff;
 4. A 120 hour course outline that includes:
 - a. Didactic pharmacology and clinical training in the diagnosis and treatment of:
 - i. Anterior segment disease;
 - ii. Posterior segment disease;
 - iii. Glaucoma; and
 - iv. Systemic diseases and emergencies with all pharmaceutical agents and the specific agents listed in A.R.S. § 32-1706(A), (B), (C), and (E).
 - b. A minimum of 12 hours of pharmacologic principles in the side effects, adverse reactions, drug interactions, use of systemic antibiotics, analgesics, antipyretics, antihistamines, over-the-counter medications, and medications and procedures to counter the affect of adverse reactions.
- B. An accredited educational institution that offers an approved course of study shall grant a certificate of completion or its equivalent for the course of study when a student obtains a score of at least 75% on a closed book, proctored, written examination covering prescribing, dispensing, and administering pharmaceutical agents, and is commensurate with courses of study taken by current doctoral candidates in colleges of optometry.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1).
Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-205 renumbered to R4-21-207; new Section R4-21-205 adopted effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3).

R4-21-206. Pharmaceutical Agent Certificate of Special Qualification

- A.** An optometrist who is licensed on September 13, 2000 may apply for a pharmaceutical agent certificate of special qualification to prescribe, dispense, and administer pharmaceutical agents.
1. If the optometrist does not hold a TPA certificate of special qualification issued before August 6, 1999, the optometrist shall:
 - a. Take a course of study that meets the requirements of R4-21-205(A);
 - b. Provide the Board with a copy of current CPR certification; and
 - c. Request the National Board or the issuing educational institution to send the Board documentation showing the optometrist passed the National Board's Treatment and Management of Ocular Disease examination or other examination approved by the Board after July 17, 1993.
 2. If the optometrist holds a TPA certificate of special qualification issued before August 6, 1999, the optometrist shall:
 - a. Request that the issuing educational institution send the Board a certificate of completion showing the optometrist passed a Board-approved course meeting the criteria specified in R4-21-205(A)(4)(b), and
 - b. Provide the Board with a copy of current CPR certification.
 3. If the optometrist graduated after August 6, 1999 and is licensed by the Board, the optometrist shall provide the Board with a copy of current CPR certification.
- B.** An optometrist who is denied certification by the Board may appeal the decision by filing a written request with the Board within 30 days following receipt of the notice of denial or disapproval. The hearing shall be conducted under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective November 5, 1998 (Supp. 98-4).
Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3).

R4-21-207. Submission of Fee; Issuance and Display of License; Surrender of License

- A.** An applicant shall submit the license issuance fee established in R4-21-103 to the Board within 20 days following notification by the Board that the applicant has met the qualifications for licensure. The Board shall issue a license at the next Board meeting following receipt of payment.
- B.** License display. An optometrist shall conspicuously display:
1. An optometry license or a Board-issued duplicate at all places where the optometrist is registered to practice optometry, and
 2. The appropriate Board-issued pharmaceutical agent certificate at each location.
- C.** An optometrist shall surrender to the Board all licenses, certificates, and duplicates upon disciplinary order of the Board.

Historical Note

Former Section R4-21-08 renumbered without change as

Section R4-21-207 effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-207 renumbered to R4-21-208; new Section R4-21-207 renumbered from R4-21-205 and amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3).

R4-21-208. Continuing Education Requirements; Program Criteria and Procedures

- A.** All continuing education courses or programs approved by the Board are based on the following:
1. The education has optometric application,
 2. The education is available to all optometrists and students of optometry,
 3. The instructor has expertise in the field in which the instructor is teaching,
 4. The learning objectives are reasonably and clearly stated,
 5. The teaching methods are appropriate and clearly stated, and
 6. Documentation of attendance is provided to those attending.
- B.** An optometrist may apply to the Board for approval of continuing education, not otherwise authorized, by submitting to the Board 45 days before the date the course or program is offered, a description of the program content, instructors and their qualifications, sponsor of the program, if any, conditions of availability, and time and place offered.
- C.** Correspondence courses may include written, computer, and on-line education courses, but not more than 6 hours of correspondence courses may be used for license renewal.
- D.** Not more than 4 hours of practice management and administration continuing education may be used for license renewal.
- E.** An optometrist shall not carry-over hours accumulated in any 1 biennial license period to a subsequent license period.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1).
Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-208 renumbered to R4-21-209; new Section R4-21-208 renumbered from R4-21-207 and amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3).

R4-21-209. Discretionary Exemption

- A.** In emergency situations or circumstances involving extreme hardship to an optometrist, the Board may, at its discretion and for good cause shown, reduce the number of hours of continuing education required or grant an extension of time for completion of all or part of the continuing education requirement for a particular biennial licensure period.
- B.** At least 90 days prior to the date of license renewal, a licensee who desires a reduction or extension to complete continuing education shall submit documentation to the Board of the emergency situation or circumstances involving extreme hardship that prevent the licensee from complying with the continuing education requirement in R4-21-208.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1). Section R4-21-209 renumbered to R4-21-307 effective April 1, 1991 (Supp. 91-2). New Section R4-21-209 renumbered from R4-21-208 and amended effective November 5, 1998 (Supp. 98-4).

R4-21-210. Equipment and Supplies

- A.** An optometrist shall maintain the following equipment and supplies in the treatment room to counteract an anaphylactic reaction:
1. A telephone with access to an emergency medical number,
 2. Auto-injectors of epinephrine, and
 3. Oral diphenhydramine hydrochloride (Benadryl).
- B.** Except for a licensed Diagnostic Pharmaceutical Agent, an optometrist shall maintain the following uniform prescription form.

TPA # _____ PA # _____	Doctor's Name Doctor's Address City, State, Zip Code Telephone Number Fax Number	License # _____ DEA # _____ (Optional)
Name _____ Date: _____ Address: _____ Rx: _____		
Disp: Sig: Refill _____ Times		
_____ Dispense as Written		_____ Substitution Permissible

Historical Note

Former Section R4-21-02 renumbered without change as Section R4-21-210 effective February 7, 1986 (Supp. 86-1). Repealed effective April 1, 1991 (Supp. 91-2). New Section adopted by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3).

R4-21-211. Repealed**Historical Note**

Former Section R4-21-03 renumbered without change as Section R4-21-211 effective February 7, 1986 (Supp. 86-1). Repealed effective April 1, 1991 (Supp. 91-2).

R4-21-212. Repealed**Historical Note**

Former Section R4-21-04 renumbered without change as Section R4-21-212 effective February 7, 1986 (Supp. 86-1). Repealed effective April 1, 1991 (Supp. 91-2).

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Table 1. Time-frames (in calendar days)

Type of License	Overall Time-frame	Administrative Review Time-frame	Time to Respond to Deficiency Notice	Substantive Review Time-frame	Time to Respond to Request for Additional Information
Initial Licensure by Examination A.R.S. § 32-1722	90	30	20	60	20
Initial Licensure by Reciprocity R4-21-201	120	60	20	60	20
Renewal of License R4-21-204	90	60	20	30	20
Board Approved Course of Study R4-21-205	180	90	20	90	20
Certificates of Special Qualification R4-21-206	120	60	20	60	20
Continuing Education Program Approval R4-21-208	120	60	20	60	20
Registration of nonresident dispenser of replacement soft contact lenses A.R.S. § 32-1773	120	60	20	60	20

Historical Note

Table 1 adopted effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3).

ARTICLE 3. REGULATORY PROVISIONS**R4-21-301. Styles of Optometric Practice; Staff Responsibility**

- A.** An optometrist shall practice the profession of optometry only as a sole practitioner, a partner with other optometrists, an employee of an optometrist, or an optometric professional corporation. In any of these styles of practice, an optometrist may practice as an independent contractor and shall practice only under the name, which may include a trade name, by which the optometrist is registered with the Board.
- B.** An optometrist and particularly an optometrist practicing the profession of optometry as an independent contractor shall:
1. Be solely responsible for patient examination, diagnosis and treatment; and for the procedures used for scheduling and recordkeeping; and
 2. Conduct the practice of optometry free of any control by a person not licensed to practice the profession of optometry.
- C.** An optometrist shall ensure that the optometrist's staff complies with the requirements of the laws and rules of Arizona that govern the practice of optometry.

Historical Note

Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4).

R4-21-302. False Advertising

- A.** An optometrist shall not make, publish, or use an advertisement, printed, oral, or otherwise, that contains any false, fraudulent, deceptive, or misleading representations concerning ophthalmic goods or optometric services, or the manner of their sale or distribution.
- B.** An optometrist shall only advertise as a specialist if the optometrist has been certified by the American Academy of Optome-

try as a diplomate in that specialty or as a fellow in the College of Optometrists in Vision Development. An optometrist may advertise that the optometrist has a practice limited in some way, provided that the optometrist shall not use the term specialist or any derivative of that term.

- C.** An optometrist shall have knowledge of and be professionally responsible for the contents of any advertisement or directory that includes the name and address of the optometrist.

Historical Note

Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4).

R4-21-303. Affirmative Disclosures in Advertising and Practice; Warranties, Service, or Ophthalmic Goods Replacement Agreements

- A.** An advertisement for or by an optometrist offering ophthalmic goods or optometric services for a stated price or discount shall clearly indicate in the spoken word or in type size equivalent to the address line within the advertisement:
1. If for spectacle lenses or contact lenses whether they are single vision, multifocal, or other;
 2. Whether the price includes the frame and lenses for spectacles;
 3. Whether the price includes an eye examination;
 4. Whether the price for contact lenses includes all dispensing fees, follow-up care, a contact lens accessory kit, and, if an accessory kit is included, the specific features of the kit;
 5. Whether restrictions are imposed upon delivery, if delivery time is advertised;
 6. The applicable refund policy if refunds are advertised; and
 7. If applicable, a statement that other restrictions apply.

- B. An optometrist shall inform a patient of the optometrist's fee policy prior to providing treatment.
- C. An optometrist who refers a patient to a facility in which the optometrist or a member of the optometrist's family has an ownership or employment interest shall advise the patient at the time of the referral.
- D. An optometrist who charges a patient a fee for a warranty, or service or ophthalmic goods replacement agreement, shall give the patient a written copy of the warranty, or service or ophthalmic goods replacement agreement, that explains the coverage and any limitations. An optometrist shall document the transaction by making a written entry on the patient's records, or by placing a copy of the warranty, or service or ophthalmic goods replacement agreement, in the patient's records.

Historical Note

Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4).

R4-21-304. Vision Examination Standards; Records

- A. An optometrist shall conduct eye examinations in accordance with the standards of care established by the following American Optometric Association practice guidelines which are incorporated by this reference and on file with the Secretary of State. The materials incorporated contain no later editions or amendments:
 1. Comprehensive Adult Eye and Vision Examination, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
 2. Pediatric Eye and Vision Examination, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
 3. Care of the Patient with Diabetes Mellitus, September 1998, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
 4. Care of the Patient with Amblyopia, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
 5. Care of the Patient with Primary Angle Closure Glaucoma, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
 6. Care of the Patient with Age-Related Macular Degeneration, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
 7. Care of the Patient with Anterior Uveitis, 1994, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
 8. Care of the Adult Patient with Cataract, March 20, 1999, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
 9. Care of the Patient with Open Angle Glaucoma, May 28, 1999, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
 10. Care of the Patient with Ocular Surface Disease, June 5, 1999, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
 11. Care of the Patient with Conjunctivitis, 1995, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
 12. Care of the Patient with Strabismus: Esotropia and Exotropia, 1995, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
 13. Care of the Patient with Retinal Detachment and Related Peripheral Vitreoretinal Disease, 1995, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;

14. Care of the Patient with Low Vision, June 11, 1997, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
15. Care of the Patient with Myopia, August 9, 1997, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
16. Care of the Patient with Hyperopia, August 9, 1997, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881;
17. Care of the Patient with Presbyopia, March 20, 1998, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881; and
18. Care of the Patient with Accommodative and Vergence Dysfunction, March 20, 1998, American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141-7881.

- B. An optometrist shall establish and maintain a complete and legible record of each examination including all findings. The Board shall consider an illegible record to be an incomplete examination. An optometrist shall ensure that a patient record reflects the name of the person who makes each entry and is maintained for at least 10 years after the last contact with a patient. The patient record shall include:
 1. Complete case history;
 2. Visual acuity of each eye: entering, and best corrected;
 3. Ocular health examination;
 4. Assessment of intraocular and extraocular muscle function;
 5. Objective or subjective refraction of the eyes;
 6. Diagnosis, treatment, and disposition;
 7. The type and dosage of each use of a pharmaceutical agent used;
 8. Any final prescription given; and
 9. Any corrective procedure program prescribed.
- C. An optometrist who discontinues practice for any reason shall arrange for patient records to be available to a patient for 10 years and shall notify the Board of the permanent location of patient records from that practice before discontinuing practice. An optometrist who acquires or succeeds to a practice or patient records of an optometrist who has discontinued practice shall maintain the records or make arrangements for the records to be available to a patient for 10 years after the practice was discontinued.
- D. An optometrist shall, upon written request of a patient, transmit a copy of the patient's requested records to any designated person. The optometrist may charge a fee to cover clerical and mailing costs. The optometrist shall maintain a record of the transfer for 10 years from the date of the transfer.

Historical Note

Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3).

R4-21-305. Prescription Standards; Release to Patients

- A. An optometrist shall not charge a patient a fee in addition to the examination fee as a condition for release of the patient's prescription. An optometric prescription shall include:
 1. For ophthalmic lenses other than contact lenses:
 - a. The refractive power of the lenses;
 - b. The interpupillary distance;
 - c. The printed name of the optometrist, the location of the office, and the signature of the optometrist; and
 - d. The date of the examination and the expiration date of the prescription.
 2. For contact lenses:

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- a. If a patient who has not completed a trial period appropriate under the circumstances desires to have a prescription, the prescription need only contain the information required for ophthalmic lenses other than contact lenses;
 - b. If a patient has completed a trial period appropriate under the circumstances for the lenses prescribed, all information necessary to accurately reproduce the contact lenses;
 - c. The printed name of the optometrist, the location of the office, and the signature of the optometrist;
 - d. The date of the examination, the expiration date of the prescription, and the number of lenses that can be dispensed prior to the expiration date.
3. For topical pharmaceutical agents:
- a. The date of issuance;
 - b. The name and address of the patient;
 - c. The name, strength, and quantity;
 - d. The directions for use;
 - e. The name and address of the prescribing optometrist;
 - f. The written signature of the prescribing optometrist;
 - g. The topical pharmaceutical agent certificate number of the prescribing optometrist; and
 - h. Two adjacent signature lines, under the left of which are the printed words dispense as written, and under the right, the printed words substitution permissible;
4. A prescription may include additional information the optometrist considers necessary.
- B.** An optometrist who dispenses or directs the dispensing of ophthalmic materials shall ensure that prescriptions are filled accurately.
- C.** An optometrist shall be available to verify that a prescription written by the optometrist but filled by another provider of ophthalmic goods has been accurately filled. The optometrist may charge a fee for verification of the accuracy or quality of ophthalmic goods dispensed by another provider.

Historical Note

Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4).

R4-21-306. Low Vision Rehabilitation and Vision Therapy

An optometrist may employ any objective or subjective means or methods other than surgery, to diagnose or treat with topical pharmaceutical agents any visual, muscular, neurological, or anatomical anomaly of the eye. The optometrist may use any instrument or device to train the visual system or correct any abnormal condition of the eye, including the use of low vision rehabilitation and vision therapy.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-306 renumbered to R4-21-307; new Section R4-21-306 adopted effective November 5, 1998 (Supp. 98-4).

R4-21-307. Subpoenas

The Board shall approve all summons and subpoenas issued by the Secretary or the Executive Director of the Board in connection with Board investigations or disciplinary proceedings pursuant to Title 32, Chapter 21.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1). Section R4-21-307 renumbered from R4-21-209 effective April 1, 1991 (Supp. 91-2). Section R4-21-307 renumbered to R4-21-308; new Section R4-21-307 renumbered from

R4-21-306 and amended effective November 5, 1998 (Supp. 98-4).

R4-21-308. Rehearing or Review of Administrative Decision

- A.** Except as provided in subsection (G), any party in a contested case or appealable agency action before the Board who is aggrieved by a decision rendered by the Board may file a written motion for rehearing of the decision with the Board not later than 30 days after service of the decision. The motion shall specify the particular grounds for the rehearing. For purposes of this subsection, a decision is served when personally delivered or mailed by certified mail to a party at the party's last known residence or place or business.
- B.** A party may amend a motion for rehearing under this Section at any time before it is ruled upon by the Board. A response may be filed within 10 days after service of the motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may permit oral argument.
- C.** The Board may grant a rehearing or review of the decision for any of the following causes materially affecting the moving party's rights:
- 1. Irregularity in the administrative proceedings of the Board, hearing officer, or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 - 2. Misconduct of the Board, hearing officer, or prevailing party;
 - 3. Accident or surprise that could not have been prevented by ordinary prudence;
 - 4. Material evidence, newly discovered, that with reasonable diligence could not have been discovered and produced at the original hearing;
 - 5. Excessive or insufficient penalties;
 - 6. Error in the admission or rejection of evidence or other errors of law occurring in the course of an administrative hearing;
 - 7. That the decision is not justified by the evidence or is contrary to law.
- D.** The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing shall specify with particularity the grounds on which the rehearing is granted, and the rehearing shall cover only those matters.
- E.** Not later than 30 days after the Board issues a decision, the Board may on its own initiative review or order a rehearing of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the Board order granting the rehearing shall specify the grounds therefor.
- F.** When a motion for rehearing is based upon affidavits, a party making the motion shall serve the affidavits with the motion. Within 10 days after service an opposing party may serve opposing affidavits. The Board may extend the 10-day period an additional 10 days, for good cause or upon written stipulation of the parties. The Board may permit reply affidavits.
- G.** If the Board makes a specific finding in a decision that the immediate effectiveness of the decision is necessary for the preservation of the public peace, health, or safety and that a rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without opportunity for a rehearing. If a Board decision is issued as a final decision without an opportunity for rehearing, a party seeking judicial review of the decision shall

make application to the superior court within the time limits permitted for application for judicial review of the Board's final decision.

- H. The terms "contested case and party" have the same meaning as in A.R.S. Title 41, Chapter 6.

Historical Note

Section R4-21-308 renumbered from R4-21-307 and amended effective November 5, 1998 (Supp. 98-4).

ARTICLE 4. PUBLIC PARTICIPATION PROCEDURES

R4-21-401. Agency Record; Directory of Substantive Policy Statements

The official rulemaking record and directory of substantive policy statements is located in the office of the Board and may be reviewed any week day, 8:00 a.m. until 5:00 p.m., except state holidays.

Historical Note

Adopted effective November 5, 1998 (Supp. 98-4).

R4-21-402. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact

A petition to adopt, amend, or repeal a rule or to review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule under A.R.S. § 41-1033 or to object to a rule in accordance with A.R.S. § 41-1056.01 shall be filed with the Board as prescribed in this Section. Each petition shall contain:

1. The name and current address of the petitioner;
2. For the adoption of a new rule, the specific language of the proposed rule;
3. For the amendment of a current rule, the citation for the applicable Arizona Administrative Code number and rule title. The request shall include the specific language of the current rule, any language to be deleted shall be stricken through but legible, and any new language shall be underlined;
4. For the repeal of a current rule, the citation for the applicable A.A.C. number and title of the rule proposed for repeal;
5. The reasons a rule should be adopted, amended, or repealed, and if in reference to an existing rule, why the rule is inadequate, unreasonable, unduly burdensome, or otherwise not acceptable. The petitioner may provide additional supporting information, including:
 - a. Any statistical data or other justification, with clear reference to an attached exhibit;
 - b. An identification of what persons or segment of the public would be affected and how they would be affected; and
 - c. If the petitioner is a public agency, a summary of relevant issues raised in any public hearing, or as written comments offered by the public;
6. For a review of an existing Board practice or substantive policy statement alleged to constitute a rule, the reasons the existing Board practice or substantive policy statement constitutes a rule and the proposed action requested of the Board.
7. For an objection to a rule based upon the economic, small business, or consumer impact, evidence that:
 - a. The actual economic, small business, or consumer impact significantly exceeded the impact estimated in the economic, small business, and consumer impact statement submitted during the making of the rule; or
 - b. The actual economic, small business, or consumer impact was not estimated in the economic, small

business, and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule.

8. The signature of the person submitting the petition.

Historical Note

Adopted effective November 5, 1998 (Supp. 98-4).

R4-21-403. Public Comments

- A. On or before the date of the close of record, a person may comment upon a rule proposed by the Board by submitting written comments on the proposed rule or upon any other matter noticed for public comment in the Arizona Administrative Register to the Board.
- B. The Board considers a written comment submitted on the date it is received by the Board, except if a comment is mailed the date of receipt shall be the postmarked date.
- C. The Board shall consider all written comments that conform with A.R.S. § 41-1023.

Historical Note

Adopted effective November 5, 1998 (Supp. 98-4).

R4-21-404. Oral Proceedings

- A. A person requesting oral proceedings, as prescribed in A.R.S. § 41-1023(C), shall:
 1. File the request with the Board;
 2. Include the name and current address of the person making the request; and
 3. Refer to the proposed rule and include, if known, the date and issue of the Arizona Administrative Register in which the notice was published.
- B. The Board shall record an oral proceeding either electronically or stenographically, and any cassette tapes, transcripts, registers, and written comments received shall become part of the official record.
- C. The presiding officer shall utilize the following guidelines to conduct oral proceedings:
 1. Registration of attendees. Registration of attendees shall be voluntary;
 2. Registration of persons intending to speak. Registration information shall include the registrant's name, representative capacity, if applicable, a notation of the registrant's position with regard to the proposed rule and the approximate length of time the registrant wishes to speak;
 3. Opening of the record. The presiding officer shall open the proceeding by identifying the rules to be considered, the location, date, time, and purpose of the proceeding, and present the agenda;
 4. A statement by Board representative. The Board representative shall explain the background and general content of the proposed rules;
 5. A public oral comment period. The presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition; and
 6. Closing remarks. The presiding officer shall announce the location where the written public comments are to be sent.

Historical Note

Adopted effective November 5, 1998 (Supp. 98-4).

R4-21-405. Petition for Delayed Effective Date

- A. A person wanting to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the Board. The petition shall contain:

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1. The name and current address of the person submitting the petition;
 2. Identification of the proposed rule;
 3. The need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted, and the reasons why the public interest will not be harmed by the later date; and
 4. The signature of the person submitting the petition.
- B.** The Board shall make a decision and notify the petitioner of the decision within 60 days of receipt of the petition.

Historical Note

Adopted effective November 5, 1998 (Supp. 98-4).

R4-21-406. Written Criticism of Rule

- A.** Any person may file a written criticism of an existing rule with the Board.
- B.** The criticism shall clearly identify the rule and specify why the existing rule is inadequate, unduly burdensome, unreasonable, or otherwise improper.
- C.** The Board shall acknowledge receipt of any criticism within 15 days and shall place the criticism in the official record for review by the Board under A.R.S. § 41-1056.

Historical Note

Adopted effective November 5, 1998 (Supp. 98-4).